

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARTIN J. BIBBS,  
Plaintiff,  
v.

MICHAEL C. SAYRE, M.D., NANCY  
W. ADAM, M.D., and TERRY ROGDE,  
Defendants.

Case No.: C 13-1570 CW (PR)

ORDER DENYING WITHOUT PREJUDICE  
PLAINTIFF'S MOTION FOR  
TEMPORARY INJUNCTION

Doc. No. 27

Plaintiff, a state prisoner incarcerated at Pelican Bay State Prison (PBSP), has filed a pro se civil rights action pursuant to 42 U.S.C. § 1983, alleging the violation of his constitutional rights by medical staff at PBSP. On September 24, 2013, the Court screened Plaintiff's complaint and found that his claims against Defendants Dr. Michael Sayre and Dr. Nancy Adam for deliberate indifference to his serious medical needs were cognizable. See Doc. no. 11. The Court found the allegations failed to state a claim for deliberate indifference to his serious medical needs against Defendant Terry Rogde and dismissed the claim against Mr. Rogde with leave to amend. Id. On October 15, 2013, Plaintiff filed an amended complaint (FAC) adding allegations against Mr. Rogde. See Doc. no. 16. On December 24, 2013, Defendants filed a motion to screen the amended complaint and requested an extension of time to file a dispositive motion. On January 21, 2014, the Court screened the FAC and found the allegations against Mr. Rogde insufficient to state a cognizable claim against him. See Doc.

1 25. The Court also granted Defendants' request for an extension  
2 of time to file their dispositive motion. Defendants' dispositive  
3 motion is now due on March 14, 2014.

4 On January 28, 2014, Plaintiff filed an opposition to  
5 Defendants' motion for a revised scheduling order and the instant  
6 motion for a temporary injunction for a physical examination,  
7 including an MRI of his back and legs with the results reviewed by  
8 an orthopedic specialist and neurologist. See Doc. no. 27.

9 Plaintiff's opposition and motion are dated January 13, 2014  
10 but were entered in the Court's docketing system on January 28,  
11 2014. Therefore, Plaintiff wrote this document before the Court  
12 issued its Order granting Defendants an extension of time, but it  
13 was filed seven days after the Court issued that Order. As  
14 mentioned above, the Court has set March 14, 2014 as the deadline  
15 for Defendants' dispositive motion. The Court sees no reason to  
16 change the March 14 date at this time.

17 In his motion for a temporary injunction, Plaintiff requests  
18 the same injunctive relief as he does in his complaint.  
19 Defendants are ordered to respond to Plaintiff's motion for  
20 injunctive relief in the dispositive motion that they file by  
21 March 14, 2014. The Court will address Plaintiff's motion for  
22 injunctive relief when it rules on Defendants' dispositive motion.  
23 At this time, Plaintiff's separate motion for injunctive relief is  
24 denied without prejudice.

#### 25 CONCLUSION

26 For the reasons stated above, the Court orders the following:

27 1. Plaintiff's motion for a temporary injunction is denied  
28 without prejudice. Doc. no. 27. Defendants are ordered to  
address this motion in their dispositive motion.

1        2. The briefing schedule set by the Court in its January 21,  
2 2014 Order remains in effect. Defendants' dispositive motion must  
3 be filed on or before March 14, 2014. Plaintiff's opposition is  
4 due twenty-eight days after he is served with Defendants' motion.  
5 Defendants' reply is due no later than fourteen days after the  
6 date Plaintiff's opposition is filed.

7        3. This Order terminates docket number 27.

8        IT IS SO ORDERED.

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10 Dated: 2/3/2014

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12 CLAUDIA WILKEN  
13 UNITED STATES DISTRICT JUDGE  
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United States District Court  
For the Northern District of California